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IN THE
Supreme Court of the United States
OCTOBER TERM, 1994

WILLIAM E. KIRWAN, *et al.*,
Petitioners,
v.
DANIEL J. PODBERESKY,
Respondent.

MONICA GREENE, *et al.*
Petitioners,
v.
DANIEL J. PODBERESKY,
Respondent.

On Petitions for Writs of Certiorari to the United States Court of Appeals for the Fourth Circuit

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BRIEF FOR *AMICI CURIAE* NATIONAL WOMEN'S LAW CENTER, ET AL. IN SUPPORT OF PETITIONER

MARCIA GREENBERGER
VERNA L. WILLIAMS
NATIONAL WOMEN'S LAW CENTER
1616 P Street, N.W.
Washington, D.C. 20036
(202) 328-5160

DAVID H. COBURN
Counsel of Record
SARA E. HAUPTFUEHRER
STEPTOE & JOHNSON
1330 Connecticut Avenue, N.W.
Washington, D.C. 20036
(202) 429-3000

Counsel for Amici Curiae National Women's Law Center, et al.

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On Petitions for Writs of Certiorari to the United States Court of Appeals for the Fourth Circuit

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BRIEF FOR *AMICI CURIAE* NATIONAL WOMEN'S LAW CENTER, ET AL. IN SUPPORT OF PETITIONER

INTEREST OF *AMICI CURIAE*

Amici Curiae are 11 women's rights and civil rights organizations sharing a strong commitment to the protection of the rights of women and the elimination of unlawful discrimination against women.[1] They litigate and

[1] The parties have consented to the filing of this brief. Their consent letters have been filed with the Clerk.

educate the public to secure equal rights for women in all aspects of American life, including higher education. Individual statements of interest of the *amici* are reproduced in the Appendix.

The decision of the court of appeals, *Podberesky v. Kirwan*, 38 F.3d 147 (4th Cir. 1994), is of far-reaching significance because it threatens the broad array of financial assistance now offered to thousands of women students nationwide as a means of redressing the effects of past discrimination in higher education. Such programs exist because, as public and private entities have recognized, the elimination of the persistent effects of historical discrimination against women requires ameliorative measures. For women of color, particularly African-American women, these programs are especially critical because the opportunities for them to pursue higher education have been severely restricted by the combination of discrimination based on gender and on race.

ARGUMENT

In the decision below, the court of appeals held that the University of Maryland at College Park ("UMCP") may not maintain a race-based scholarship program that UMCP officials have concluded is necessary to ameliorate the lingering vestiges of the state's long history of discrimination against African-Americans in higher education. In so holding, the court of appeals ignored this Court's recent decision in *United States v. Fordice*, 112 S. Ct. 2727 (1992), which confirmed that a state that once maintained a dual system of education *de jure* has a "constitutional duty to dismantle the dual school system that its laws once mandated." 112 S. Ct. at 2735. The Court in *Fordice* made clear that "this obligation applies to [the state's] higher education system," as well as to its primary and secondary schools. *Id.*; *see, e.g.*, *Swann v. Charlotte-Mecklenburg Bd. of Educ.*, 402 U.S. 1, 15 (1971); *Green v. County School Bd. of New Kent*

County, 391 U.S. 430, 437-38 (1968); *Brown v. Board of Education*, 349 U.S. 294 (1955).

Instead of focusing on the case law involving institutions that have engaged in unlawful discrimination in the past, the court of appeals relied on decisions assessing the validity of race-conscious programs voluntarily adopted by public employers in the absence of any findings of past discrimination. *E.g.*, *City of Richmond v. J.A. Croson Co.*, 488 U.S. 469 (1989); *Wygant v. Jackson Board of Education*, 476 U.S. 267 (1986). *Wygant* and *Croson* are clearly distinguishable from this case for at least one reason: no one disputes that UMCP discriminated against African-Americans for many years.[2] Indeed, under such circumstances, the Court has recognized a "constitutional *duty* to take affirmative steps to eliminate the continuing effects of past unconstitutional discrimination." *Wygant*, 476 U.S. at 291 (O'Connor, concurring) (citing *Swann*) (emphasis in original). *See also United States v. Paradise*, 480 U.S. 149, 167 (1987) (plurality opinion) (upholding race-conscious relief imposed to remedy "the pervasive, systematic, and obstinate discriminatory conduct" of the public employer).

That UMCP has not been adjudged by a court to be in violation of the Constitution is of no moment. Surely, a public institution need not wait until it is subject to the contempt power of a federal court before it implements remedial action to redress the effects of its own past wrongs. UMCP's desegregation plan, of which the challenged Banneker Scholarship program is an important component, was developed in response to ongoing pressure from the Department of Education's Office of Civil

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[2] The history of discrimination at UMCP is set out in the Petitions and will not be repeated here. *See* Petition for a Writ of Certiorari, *Kirwan v. Podberesky*, No. 94-1620 ("Kirwan Pet.") at 6-11; Petition for a Writ of Certiorari to the United States Court of Appeals for the Fourth Circuit, *Greene v. Podberesky*, No. 94-1621 ("Greene Pet.") at 3-6.

Rights, which has yet to approve the University's efforts to desegregate. *See* Kirwan Pet. at 8-11. And the University itself engaged in extensive administrative fact-finding that confirmed the need for and the efficacy of the Banneker program. *Id.* at 4.

In these circumstances the court of appeals erred in failing to uphold the University's decision to retain the Banneker program. *See Wygant*, 476 U.S. at 277 (in assessing a claim of reverse discrimination, "the trial court must make a factual determination that *the employer* had a strong basis in evidence for *its* conclusion that remedial action was necessary") (emphasis added); U.S. Dept. of Educ., *Nondiscrimination in Federally Assisted Programs*, 59 Fed. Reg. 8756, 8757 (1994) (a finding by "a court or an administrative agency—such as the Department's Office of Civil Rights"—that race-conscious relief is necessary to "overcome the effects of past discrimination" justifies such relief, as does a "strong basis in evidence" that such relief is necessary, absent a formal finding).[3]

Amici submit that the failure of the court of appeals to give proper weight to the history of race discrimination in assessing the Banneker program casts a shadow on the continued viability of gender-based scholarships designed to remedy historical discrimination faced by women in higher education. To a large extent, the history of discrimination against women in higher education,

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[3] It seems that in this case the district court and the court of appeals used different approaches. The district court appears to have evaluated the University's findings based on the adequacy of the record that the University had assembled. *See* 838 F. Supp. at 1083 ("I am of the view that all four of UMCP's findings [of present effects of past discrimination] are supported by strong evidence."). The court of appeals, on the other hand, examined the evidence itself and concluded that disputed issues of material fact precluded summary judgment in favor of UMCP. 38 F.3d at 157. The district court's approach is more consistent with this Court's jurisprudence. *See Wygant*, 476 U.S. at 277.

as in other fields, mirrors the discrimination against African-Americans that the Banneker program was intended to redress. This Court has recognized the common characteristics of the nature and impact of race and gender discrimination.

> There can be no doubt that our Nation has had a long and unfortunate history of sex discrimination. Traditionally, such discrimination was rationalized by an attitude of "romantic paternalism" which, in practical effect, put women not on a pedestal, but in a cage. . . . As a result of notions such as these, our statute books gradually became laden with gross, stereotyped distinctions between the sexes and, indeed, throughout much of the 19th century the position of women in our society was, in many respects, comparable to that of blacks under the pre-Civil War slave codes. Neither slaves nor women could hold office, serve on juries, or bring suit in their own names, and married women traditionally were denied the legal capacity to hold or convey property or to serve as legal guardians of their own children.

Frontiero v. Richardson, 411 U.S. 677, 686 (1973).

The roots of sex discrimination run just as deep in the realm of higher education as they do in other areas. Women were denied access to the most prestigious American universities well into the 1950's, and the historical limitations placed on the fields of study open to women continue to have effects today in areas such as engineering and mathematics, where women continue to be underrepresented. An extensive network of gender-based scholarships and other gender-based programs has emerged to redress the legacies of this past discrimination.

The decision below is so expansive that, at the very least, educational authorities, both public and private, could well be reluctant to continue to use gender-based

scholarships for fear of provoking a legal challenge.[4] The chilling effect that that decision will have on such scholarships threatens to reverse the positive impact that such scholarships have had in eradicating the present effects of past discrimination against women.[5] This Court thus should grant the petitions for certiorari and reverse the decision of the court of appeals because of its far-reaching implications.

I. THE HISTORY OF DISCRIMINATION AGAINST WOMEN IN HIGHER EDUCATION IS LONG AND PERVASIVE

Discrimination against women in higher education initially took the form of outright exclusion. Once colleges and universities began admitting women, a variety of measures were used to limit their participation. These practices have had the effect of steering women away from

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[4] *Amici* recognize that, under this Court's jurisprudence to date, the standards governing the constitutionality of race-based classifications are different from those governing gender-based classifications. *See, e.g., Regents of the University of California v. Bakke*, 438 U.S. 265 (1978) (applying strict scrutiny for race based classifications); *Mississippi University for Women v. Hogan*, 458 U.S. 718, 724 (1982) (applying "heightened scrutiny" to gender-based classifications); *J.E.B v. Alabama ex rel. T.B.*, 114 S. Ct. 1419, 1426 n.6. (1994) (reserving the question of whether strict scrutiny should apply to gender discrimination). While these different standards might have supported a different result below had this been a case involving a gender-based scholarship program, it is questionable whether government or private scholarship sponsors would assume the risk of litigation by retaining either gender- or race-based scholarship programs were the decision below allowed to stand.

[5] Department of Education regulations implementing Title IX of the Education Amendments of 1972, 20 U.S.C. §§ 1681-1688, permit the use of affirmative actions, such as scholarships, to "overcome the effects of conditions which resulted in limited participation . . . by persons of a particular sex." 34 C.F.R. § 106.3. The court of appeals decision, if allowed to stand, would cause questions to arise about the validity of this regulation.

the traditionally male-dominated fields and into lower paying occupations. Although women continue to be underrepresented in such fields, programs targeting women have had a significant impact in reversing this trend.

The discrimination against women in higher education began with the founding of the first American institution of higher education. In 1636, Harvard College opened for men only. Not until 1943 did Harvard admit its first female student.[6] Princeton and Yale Universities did not allow women to enroll until as recently as 1969.[7] Women's progress at state universities tended to be more rapid, but was not uniform. While the University of Iowa accepted women beginning in 1855, the University of Virginia did not permit women to enroll until 1970.[8]

Indeed, early advances by women in higher education were neither uniform nor consistent, since women's progress remained captive to prevailing social mores. Concerns that women distracted men in the classroom, or conversely deterred men from taking certain classes, led many educational institutions to limit the scope of coeducation. Some colleges and universities enforced strict limitations on the number of women permitted to be enrolled each year.[9]

Other institutions limited the presence of women on campuses by demanding stronger qualifications of women than of men. For example, higher test scores and grade point averages were the necessary prerequisites for the

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[6] Barbara M. Solomon, *In the Company of Educated Women* 188 (1985).

[7] Task Force on Women in Higher Education, *Women in Academe: Progress and Prospects* 359 (Mariam K. Chamberlain ed. 1988).

[8] Solomon, *supra* note 6, at 56.

[9] Stanford University, for example, admitted only one woman student for every three men. Chamberlain, *supra* note 7, at 5.

admission of women at both the University of Michigan and Cornell University.[10] As recently as 1970, the University of North Carolina's admissions policy explicitly stated that the "admission of women on the freshmen level will be restricted to those who are exceptionally well qualified." [11]

Women also faced discriminatory hurdles to obtaining financial assistance. At Columbia University, for instance, the largest fellowships were reserved for men. And among the smaller fellowship awards, women were eligible for only four out of a total of thirty-two.[12]

Although the enrollment of women in colleges increased throughout the early 1900's, discriminatory stereotypes and prejudices profoundly affected their choice of study and pursuit of recreational activities. Women were expressly denied entrance to fields of study that were considered exclusively male provinces. For example, Harvard did not admit women to its medical school until 1945, to its law school until 1950, and to its business school until 1963.[13] Instead, women were steered into teaching and nursing-related professions. As a result of these discriminatory practices and stereotypes, the majority of women who earned bachelors degrees entered teaching or nursing-related professions until as recently as the 1970's.[14]

Thus, discrimination against women in this country's institutions of higher learning has been profound. As is true of racial discrimination, the effects of this long history of discrimination against women continue to be felt today.

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[10] Chamberlain, *supra* note 7, at 209.

[11] *Id.* at 18 (quoting statement of the University of North Carolina).

[12] Solomon, *supra* note 6, at 136.

[13] Chamberlain, *supra* note 7, at 359.

[14] Solomon, *supra* note 6, at 126.

II. THE HISTORICAL DISCRIMINATION AGAINST WOMEN IN HIGHER EDUCATION HAS GENERATED PRESENT EFFECTS THAT WARRANT REMEDIAL MEASURES

The long tradition of discriminatory practices and prejudices continues to impact upon the range of opportunities available to women in higher education in a number of ways. Women lag behind men in degrees earned in nearly all "technical" fields, particularly math, science and engineering.[15] For example, in 1992 men earned 66,716 bachelors degrees in engineering or related fields. College women, on the other hand, earned only 10,825 of these degrees. The data are even more graphic for African-American and Latina women, who, in 1992, earned only 997 and 431 engineering degrees, respectively.[16] Similar results are found in comparisons of women and men in computer science and other scientific fields.[17]

The data on women earning advanced degrees in these historically male-dominated fields underscore the extent to which prior discrimination continues to affect the opportunities for women today. In the physical sciences, including chemistry and astrophysics, women earned only 962 doctorates in 1992, while men earned 3,429.[18] And

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[15] U.S. Dept. of Educ., *National Center for Education Statistics: Digest of Education Statistics 1994* at 253 (Table 239); American Association of University Women, *How Schools Shortchange Girls* 24-29 (1992). The difficulty in entering math and science related professions is critical in terms of high school girls' future earning potential. Studies have shown that mathematics specialization is a critical determinant in income earning potential. *See* Kenneth L. Wilson & Janet P. Boldizar, *Gender Segregation in Higher Education: Effects of Aspirations, Mathematics Achievement, and Income*, 63 Soc. Educ. 62, 68 (Jan. 1990).

[16] American Council on Education, *Minorities in Higher Education 1994, 13th Annual Report* 78 (Table 14) (Mar. 1995).

[17] *Digest of Education Statistics, supra* note 15 at 252 (Table 239).

[18] *Id.* at 255 (Table 239).

even though the absolute number of women entering traditionally male-dominated fields has increased, the rate of growth appears to be slowing.[19]

The historical exclusion of women from these male-dominated fields of study, coupled with the overall discrimination women have encountered in education, also has resulted in the denial of access to critical financial assistance for higher education opportunities.[20] For example, one court has held that use of Scholastic Assessment Test ("SAT") scores, which typically are higher for boys than for girls, particularly in math,[21] as the sole determinant of state scholarship awards violates Title IX and the Equal Protection Clause of the Fourteenth Amendment. *Sharif v. N.Y. State Educ. Dept.*, 709 F. Supp. 364 (S.D.N.Y. 1989).[22]

Women also are denied access to an entire class of scholarships designated specifically for men, created with

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[19] American Council on Education, *Increase of Women Majoring in Nontraditional Fields Slows Dramatically*, About Women on Campus, Fall 1994, at 11 (study conducted by University of Pennsylvania sociologist, Jerry A. Jacobs).

[20] This discrimination continues to exist despite the passage of Title IX in 1972. *See* 20 U.S.C. §§ 1681-1688 (prohibiting discrimination on the basis of sex "under any educational program or activity receiving Federal financial assistance" with certain exceptions).

[21] Mary Moran, *Student Financial Aid and Women: Equity Dilemma?* 17 (Jonathan D. Fife ed. 1986).

[22] Indeed, the use of standardized tests to determine allocation of educational benefits and scholarships has been challenged by scholars, *see, e.g.*, Katherine Conner & Ellen Vargyas, *The Legal Implications of Gender Bias in Standardized Testing*, 7 Berkeley Women's L.J. 13 (1992), and recently at the Office of Civil Rights ("OCR") for the Department of Education, where the American Civil Liberties Union filed a complaint in February 1994 concerning the use of the Preliminary Scholastic Assessment Test ("PSAT") to determine scholarship eligibility. To date, OCR has not issued a finding in that case.

no remedial purpose whatsoever. Specifically, Title IX regulations permit scholarship programs

> established pursuant to domestic or foreign wills, trusts, bequests, or similar legal instruments or by acts of a foreign government which requires that awards be made to members of a particular sex specified therein; *Provided,* That the overall effect of the award of such sex-restricted scholarships, fellowships, and other forms of financial assistance does not discriminate on the basis of sex.

34 C.F.R. § 106.37(b).[23] Thus, colleges and universities across this nation have provided scholarships and fellowships for "deserving" men planning to pursue careers in medicine,[24] male mechanical engineering students who are members of the Sigma Chi Fraternity,[25] men from New Jersey,[26] and men who attended certain high schools,[27] among others.[28] As this illustrative list demonstrates, not only do these targeted scholarships fail to evince a compensatory purpose, in some cases they encourage and facilitate male participation in fields where

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[23] Surely, it would be unacceptable for the court of appeals decision, if permitted to stand, to allow the anomalous circumstance in which gender-based scholarships established to remedy past discrimination would be unlawful, while gender-specific scholarships created for men with no compensatory purpose would be permitted.

[24] George Groff and Margaret Groff Scholarship offered by Bucknell University.

[25] Lewis Frederick Lyne Jr., Mechanical Engineering Scholarship, offered by Bucknell University.

[26] The New Jersey Student Aid Fund, offered by Middlebury College.

[27] The Duncan School Memorial Scholarship, offered by Vanderbilt University.

[28] The University of Maryland also offers male residents of Baltimore City or Charles County financial aid through the Vivian F. Roby Fund.

men already have an advantage, such as science and engineering.

The continued disparate treatment of women and the lingering effects of discrimination in higher education that persist to this day warrant special attention on the part of school and government officials.

III. AN EXTENSIVE NETWORK OF GENDER-BASED PROGRAMS HAS BEEN ESTABLISHED TO ERADICATE THE EFFECTS OF PAST DISCRIMINATORY PRACTICES AND PREJUDICES

To remedy the persistent effects of discrimination against women in higher education, federal, state, local, and private entities have created an extensive network of gender-based scholarships.[29] By targeting women for financial assistance, these scholarships serve to ameliorate some of the discrepancies in financial assistance that have been caused by past discrimination. Moreover, the majority of these scholarships provide funds specifically to support women interested in pursuing historically male-dominated fields, thus further addressing some of the most pernicious effects of prior discrimination. Under the ruling below, however, these scholarships could be jeopardized.

Scholarship opportunities for women range in scope from awards to encourage women to pursue careers in journalism[30] and helicopter piloting[31] to fostering interest in science and engineering.[32] At the federal level, the

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[29] According to one source, well over 1,000 scholarships are primarily or exclusively targeted for women. Gayle Schlacter, *Directory of Financial Aids for Women 1995-1997* (1994).

[30] *Id.* at 36 (Helen Miller Malloch Scholarship).

[31] *Id.* at 116 (Doris Mullen Memorial Scholarship).

[32] *E.g., id.* at 81 (Undergraduate Award for Excellence in Chemistry; Women in Engineering and Computer and Information Science Fellow).

Department of Education earmarks funds to educational institutions to enable them to identify, recruit, and make available direct financial aid to talented undergraduate women and minorities. This program provides funds to approximately seventy institutions that award roughly 1,200 individual grants annually.[33]

Similarly, several state entities have created scholarships that are specifically designed to address the underrepresentation of women in science, engineering, and other traditionally male-dominated fields of study. The Florida National Science Scholars Program and the New York Governors Committee on Scholastic Achievement provide just two examples of affirmative measures that states have taken to remedy the current imbalance between men and women in the sciences.[34]

Individual colleges and universities have also established scholarships exclusively for women.[35] The University of Maryland itself, for example, maintains seven scholarship programs that provide funds to women only. For example, the Mary Elizabeth Roby Fund provides funds to senior or graduate women enrolled in government and politics. The University also sponsors the Summer Study in Engineering for High School Women and the WM Summer Engineering Program, both of which provide assistance to high school girls.[36]

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[33] *Id.* at 88 (Women and Minority Participation in Graduate Education Grant).

[34] *Id.* at 30.

[35] Even when women are not the exclusive recipients of financial assistance, they are often given particular consideration by grant makers. For example, all of the National Institutes of Health recruitment programs require women and minorities to be given special consideration.

[36] Memorandum to the National Women's Law Center from the University of Maryland, Office of the President, *Listing of Gender-Based Scholarships awarded by UMCP.*

While targeted gender-based scholarships currently address the impact of past discrimination, the persistent disparity in the participation of women in certain fields underscores the continued necessity for these programs. By threatening the ability of educational institutions to develop and maintain programs aimed at eliminating the continued effects of historical discrimination, the decision of the court of appeals jeopardizes the continued viability of these important efforts and thus warrants the attention of this Court.

CONCLUSION

For the reasons stated above and for the reasons set forth in the Petitions, the petitions for certiorari should be granted and the decision of the court of appeals reversed.

Respectfully submitted,

MARCIA GREENBERGER
VERNA L. WILLIAMS
NATIONAL WOMEN'S LAW CENTER
1616 P Street, N.W.
Washington, D.C. 20036
(202) 328-5160

DAVID H. COBURN
Counsel of Record
SARA E. HAUPTFUEHRER
STEPTOE & JOHNSON
1330 Connecticut Avenue, N.W.
Washington, D.C. 20036
(202) 429-3000

Counsel for Amici Curiae
National Women's Law Center, et al.

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APPENDIX

APPENDIX

INDIVIDUAL STATEMENTS OF INTEREST OF *AMICI CURIAE*

National Women's Law Center

The National Women's Law Center ("NWLC") is a nonprofit legal advocacy organization dedicated to the advancement and protection of women's rights and the corresponding elimination of sex discrimination from all facets of American life. Since 1972, the NWLC has actively participated in litigation to secure the rights of women and has participated in major Supreme Court cases addressing women's right to equal protection under the law. The NWLC is interested in this case because the decision of the court of appeals threatens the broad array of financial assistance offered to thousands of women students nationwide as a means of redressing the effects of past discrimination in higher education. It is necessary that these programs exist because the elimination of the persistent effects of historical discrimination against women requires ameliorative measures.

American Association of University Women

The 150,000 members of the American Association of University Women ("AAUW") are women and men with baccalaureate or higher degrees who work on behalf of education and equity for all women and girls. AAUW favors affirmative action measures that open previously closed doors in education and in the work place to women and members of racial/ethnic minority groups. The AAUW Educational Foundation is the largest private source of fellowships to support women pursuing advanced degrees.

Association for Women in Science

Founded in 1971, the Association for Women in Science ("AWIS") is a nonprofit organization dedicated

to equity and full participation for women in all areas of science and technology. AWIS is interested in this case because the decision of the court of appeals threatens financial assistance for women and minorities which has helped redress past discriminatory practices and prejudices to equal access to higher education. Because of outright exclusion and other discriminatory practices, women are underrepresented today in fields of math, science, and engineering. To remedy these persistent effects of discrimination in higher education, an extensive network of gender-based scholarships has been implemented. AWIS believes that the decision of the court of appeals threatens the continued viability of efforts to provide equal access and promote equal opportunities for women interested in pursuing careers in science and technology.

Center for Women Policy Studies

The Center for Women Policy Studies was founded in 1972 as the first national policy research and advocacy institute focused exclusively on issues of social and economic justice for women. The Center conducts research and advocacy programs on sexual harassment and violence against women, work/family and "diversity" policies of employers, education, and other relevant issues.

National Association of Commissions for Women

The National Association of Commissions for Women ("NACW") is interested in this case because the decision below threatens the broad array of financial assistance offered to thousands of women students nationwide as a means of redressing the effects of past discrimination. These programs are necessary because the elimination of the persistent effects of historical discrimination against women requires remedial measures.

National Clearinghouse on Women's Issues

The National Clearinghouse on Women's Issues ("CWI"), a non-profit organization, was established over

twenty years ago for the purpose of exchanging and disseminating educational information on issues related to discrimination on the basis of race, sex, age, or marital status, placing particular emphasis on public policies affecting the economic and educational status of women. To carry out its mandate, the CWI takes action or positions on issues central to the well-being of women.

The Feminist Majority Foundation

Founded in 1987, the Feminist Majority Foundation is a § 501(c)(3) non-profit organization with offices in Arlington, Virginia, and Los Angeles, California. The Feminist Majority Foundation seeks to empower women through research, education, action, and other strategies that bring about women's equality.

The Feminist Majority Foundation believes that the Supreme Court of the United States should grant the petitions for writs of certiorari and further that the Supreme Court should overturn the decision of the U.S. Court of Appeals for the Fourth Circuit, erroneously holding that the University of Maryland at College Park ("UMCP") may not maintain a race-based scholarship program. The Feminist Majority Foundation believes that such programs are necessary to dismantle long-standing barriers to women's and minorities' equal educational opportunities.

NOW Legal Defense and Education Fund

NOW Legal Defense and Education Fund ("NOW LDEF") is a leading national non-profit civil rights organization that performs a broad range of legal and educational services in support of women's efforts to eliminate sex-based discrimination and secure equal rights. NOW LDEF was founded in 1970 by leaders of the National Organization for Women. A major goal of NOW LDEF is the elimination of barriers that deny women and girls equal opportunity, such as sex discrim-

ination in employment and education. NOW LDEF was co-counsel in *Garrett v. Board of Education* and has appeared as *amicus* in numerous cases concerning programs designed to insure girls' and women's equal participation in education.

National Organization for Women, Inc.

The National Organization for Women ("NOW") is the largest feminist organization in the United States, with a membership of approximately 250,000 women and men in more than 600 chapters throughout the country. Since its founding in 1966, a major goal of NOW has been the eradication of sex discrimination in education and the elimination of barriers that deny women educational opportunities and the ability to become economically self-sufficient. NOW believes that educational equality is fundamental to women's ability to achieve equality in other aspects of society. In furthering its commitment to that goal, NOW has participated in numerous cases and commented on proposed legislation and regulations to insure full enforcement of laws prohibiting discrimination in education.

Women's International League for Peace and Freedom

The Women's International League for Peace and Freedom has since 1915 worked for the achievement by peaceful means of those political, social, economic, and psychological conditions throughout the world which can assure peace, freedom, and justice for all. Ensuring access to education, through scholarship programs which redress the effects of past discrimination based on gender and race, is a necessary step towards creating those conditions. As such, the Women's International League for Peace and Freedom finds the *Podberesky* case of crucial importance.

Women's Legal Defense Fund

Founded in 1971, the Women's Legal Defense Fund ("WLDF") is a national advocacy organization that develops and promotes public policies to help women achieve equal opportunity, quality health care, and economic security for themselves and their families. The Fund has a longstanding commitment to equal opportunity for women and to monitoring the enforcement of the antidiscrimination laws. WLDF has devoted significant resources to combatting sex and race discrimination in education and has filed numerous briefs *amicus curiae* in the Supreme Court to advance women's opportunities in education.